

State of California

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Legislative Change No.

97-26

Bill Number: AB 530

Author: A. Higher Ed. Comm. Chapter Number: 97-851

Laws Affecting Franchise Tax Board:

Article 19 (commencing with Section 69980) of Chapter 2 of Part 42 of the Education Code; Sections 17140, 23735, 24306, and 24328 of the Revenue and Taxation Code

Date Filed with the Secretary of the State: October 10, 1997

SUBJECT: Exclusion/Golden State Scholarshare Trust Income

Assembly Bill 530 (Assembly Committee on Higher Education), as enacted on October 10, 1997, made the following changes to California law:

Article 19 (commencing with Section 69980) is added to Chapter 2 of Part 42 of the Education Code.

This act establishes the Golden State Scholarshare Trust. Under this act, the California Student Aid Commission may enter into participation agreements with participants for the advance payment of qualified higher education expenses for a beneficiary to attend an institution of higher education. The participation agreement provides the terms and conditions for payments made to the trust and the minimum rate of interest borne by the investment in the trust. The act provides an overall maximum investment level for a designated beneficiary of the amount equivalent to the maximum estimated qualified higher education expenses, as defined, that can be incurred by a beneficiary to obtain a baccalaureate degree at an institution of higher education in California for four years. The act provides a more than de minimus penalty if a participation agreement is canceled for reasons other than death or disability of the beneficiary or in the event the beneficiary receives a scholarship.

Pursuant to the participation agreement, the commission shall invest the pooled trust moneys. Any earnings therefrom inuring to the state shall be used to make payments to institutions of higher education on behalf of beneficiaries and to pay for administration costs.

This act requires the trust to provide an annual listing to the department of all Scholarshare distributions.

This act requires the Student Aid Commission to adopt regulations to implement the bill that are consistent with the requirements for exclusion or deferral from federal taxation.

Sections 17140 and 24306 are added to the Revenue and Taxation Code.

This act provides an exclusion from gross income for the participant or beneficiary earnings from the trust at the time they are earned. Distributions from the program in excess of amounts contributed (such as interest earnings) are included in the gross income of the designated beneficiary at the time the distributions are made. This act provides that the furnishing of education to a designated beneficiary is considered a distribution.

Bureau Director

Date

This act specifies that taxpayers who withdraw their funds early from a Scholarshare account (cancel their participation agreement) and incur a penalty shall not be allowed the deduction for early withdrawal of savings.

Section 23735 of the Revenue and Taxation Code is amended.

This act provides that an interest in a participation agreement shall not be treated as debt for purposes of determining unrelated debt-financed income.

Section 24328 is added to the Revenue and Taxation Code.

This act provides that the Golden State Scholarshare Trust is an instrumentality of this state and that the income of that trust is exempt from taxation.

Under uncodified law, this act provides that it is the intent of the Legislature that the Golden State Scholarshare program be maintained as a qualified state tuition program as provided in Internal Revenue Code (IRC) Section 529. Further, this act is to be applied in a manner consistent with IRC Section 529 and any ambiguities shall be resolved consistent with IRC Section 529.

This act applies to taxable and income years beginning on or after January 1, 1998.

This act will not require any reports by the department to the Legislature.